IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 20028 of 2004

Between:

B.S.Narayana E-95630, ADC, S/o.Ramanapatrudu,

Aged 50 years, R/o.Narsipatnam, Visakhapatnam Dist.

..... PETITIONER

AND

1 The APSRTC, rep.by its Managing Director,

Musheerabad, Hyderabad.
2 The APSRTC, rep.by its Regional Manager, Visakhapatnam Region,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not computing the periodical increments in pursuance of the Appellate authority order dt. 26-3-1988 as illegal and arbitrary and as such liable to be set aside with a consequential direction to the respondents herein to compute the periodical increments that would have been earned by the petitioner had he been in service during the out of employment period i.e., 2-5-1986 to 26-3-1988 and after determining such increments and on the basis of the same to fix the wage payable to the petitioner after his reinstatement i.e., on 12-4-1988 and to pay the arrears in respect of the period subsequent to reinstatement.

For the Petitioner: MR.S.M.SUBHAN, Advocate

For the Respondents: KUM.B.G.UMA DEVI, SC FOR APSRTC

The Court made the following:

ORDER:

The petitioner is presently working as an Assistant Depot Clerk in the respondent Corporation. Previously he worked as a Conductor from 1978. He was removed from service on 18.10.1986 on the charge of cash and ticket irregularities. Subsequently when he preferred an appeal before the Divisional Manager, the appeal was allowed ordering his reinstatement, through the proceedings dated 23.06.1988.

2. The petitioner contends that he submitted explanation in pursuance of the said order, regarding the period of absence from the date of removal till he joins duty, but the Divisional Manager, Visakha (Rural) Division, Visakhapatnam has not passed any order, regarding the treatment of the period from the date of removal till the date of reinstatement. He approached this Court, through this writ petition, seeking direction to the respondents for the release of notional increments for the out of service period, by mentioning that he was reinstated with continuity of service, but the impugned order dated 26.03.1988 does not disclose that he was given continuity of service and the matter remained pending with the Divisional Manager, Visakha (Rural) Division, Visakhapatnam, regarding the treatment of out of service period.

3. In the light of the above circumstances, no relief can be granted to the petitioner through this writ petition regarding his request for the release of notional increments, unless it is decided by the appellate authority i.e. Divisional Manager, Visakha (Rural) Division, Visakhapatnam, regarding out of service period.

4. In the circumstances, the writ petition cannot be maintained at this stage. The Divisional Manager, Visakha (Rural) Division, Visakhapatnam is directed to pass appropriate orders, regarding the treatment of out of service period of the petitioner, from the date of removal till the date of reinstatement, in pursuance of the order dated 26.03.1988, within 8 (eight) weeks from the date of receipt of a copy

of this order.

5. The Writ Petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Managing Director, APSRTC,

Musheerabad, Hyderabad

2. The Regional Manager, APSRTC,

Visakhapatnam Region, Visakhapatnam

3. Two CD copies.